

AMENDMENTS

1999—Subsec. (c)(1). Pub. L. 106-160, §2(1), substituted “\$750” for “\$500” and “\$30,000” for “\$20,000”.

Subsec. (c)(2). Pub. L. 106-160, §2(2), substituted “\$150,000” for “\$100,000”.

1998—Subsec. (d). Pub. L. 105-298 added subsec. (d).

1997—Subsec. (c)(2). Pub. L. 105-80 substituted “the court in its discretion” for “the court in its discretion”.

1988—Subsec. (c)(1). Pub. L. 100-568, §10(b)(1), substituted “\$500” for “\$250” and “\$20,000” for “\$10,000”.

Subsec. (c)(2). Pub. L. 100-568, §10(b)(2), substituted “\$100,000” for “\$50,000” and “\$200” for “\$100”.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-160, §4, Dec. 9, 1999, 113 Stat. 1774, provided that: “The amendments made by section 2 [amending this section] shall apply to any action brought on or after the date of the enactment of this Act [Dec. 9, 1999], regardless of the date on which the alleged activity that is the basis of the action occurred.”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-298 effective 90 days after Oct. 27, 1998, see section 207 of Pub. L. 105-298, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-568 effective Mar. 1, 1989, with any cause of action arising under this title before such date being governed by provisions in effect when cause of action arose, see section 13 of Pub. L. 100-568, set out as a note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 109, 111, 115, 119, 122, 401, 402, 405, 411, 412, 510, 511, 1101 of this title; title 28 section 1498.

§ 505. Remedies for infringement: Costs and attorney’s fees

In any civil action under this title, the court in its discretion may allow the recovery of full costs by or against any party other than the United States or an officer thereof. Except as otherwise provided by this title, the court may also award a reasonable attorney’s fee to the prevailing party as part of the costs.

(Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2586.)

HISTORICAL AND REVISION NOTES

HOUSE REPORT NO. 94-1476

Under section 505 the awarding of costs and attorney’s fees are left to the court’s discretion, and the section also makes clear that neither costs nor attorney’s fees can be awarded to or against “the United States or an officer thereof.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 109, 111, 115, 119, 122, 411, 412, 510, 511, 1101 of this title.

§ 506. Criminal offenses

(a) CRIMINAL INFRINGEMENT.—Any person who infringes a copyright willfully either—

(1) for purposes of commercial advantage or private financial gain, or

(2) by the reproduction or distribution, including by electronic means, during any 180-day period, of 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than \$1,000,

shall be punished as provided under section 2319 of title 18, United States Code. For purposes of this subsection, evidence of reproduction or distribution of a copyrighted work, by itself, shall not be sufficient to establish willful infringement.

(b) FORFEITURE AND DESTRUCTION.—When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall, in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all infringing copies or phonorecords and all implements, devices, or equipment used in the manufacture of such infringing copies or phonorecords.

(c) FRAUDULENT COPYRIGHT NOTICE.—Any person who, with fraudulent intent, places on any article a notice of copyright or words of the same purport that such person knows to be false, or who, with fraudulent intent, publicly distributes or imports for public distribution any article bearing such notice or words that such person knows to be false, shall be fined not more than \$2,500.

(d) FRAUDULENT REMOVAL OF COPYRIGHT NOTICE.—Any person who, with fraudulent intent, removes or alters any notice of copyright appearing on a copy of a copyrighted work shall be fined not more than \$2,500.

(e) FALSE REPRESENTATION.—Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

(f) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Nothing in this section applies to infringement of the rights conferred by section 106A(a).

(Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2586; Pub. L. 97-180, §5, May 24, 1982, 96 Stat. 93; Pub. L. 101-650, title VI, §606(b), Dec. 1, 1990, 104 Stat. 5131; Pub. L. 105-147, §2(b), Dec. 16, 1997, 111 Stat. 2678.)

HISTORICAL AND REVISION NOTES

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Four types of criminal offenses actionable under the bill are listed in section 506: willful infringement for profit, fraudulent use of a copyright notice, fraudulent removal of notice, and false representation in connection with a copyright application. The maximum fine on conviction has been increased to \$10,000 and, in conformity with the general pattern of the Criminal Code (18 U.S.C.), no minimum fines have been provided. In addition to or instead of a fine, conviction for criminal infringement under section 506(a) can carry with it a sentence of imprisonment of up to one year. Section 506(b) deals with seizure, forfeiture, and destruction of material involved in cases of criminal infringement.

Section 506(a) contains a special provision applying to any person who infringes willfully and for purposes of commercial advantage the copyright in a sound recording or a motion picture. For the first such offense a person shall be fined not more than \$25,000 or imprisoned for not more than one year, or both. For any subsequent offense a person shall be fined not more than \$50,000 or imprisoned not more than two years, or both.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105-147 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

“(a) CRIMINAL INFRINGEMENT.—Any person who infringes a copyright willfully and for purposes of com-

mercial advantage or private financial gain shall be punished as provided in section 2319 of title 18.”

1990—Subsec. (f). Pub. L. 101-650 added subsec. (f).

1982—Subsec. (a). Pub. L. 97-180 substituted “shall be punished as provided in section 2319 of title 18” for “shall be fined not more than \$10,000 or imprisoned for not more than one year, or both: *Provided, however,* That any person who infringes willfully and for purposes of commercial advantage or private financial gain the copyright in a sound recording afforded by subsections (1), (2), or (3) of section 106 or the copyright in a motion picture afforded by subsections (1), (3), or (4) of section 106 shall be fined not more than \$25,000 or imprisoned for not more than one year, or both, for the first such offense and shall be fined not more than \$50,000 or imprisoned for not more than two years, or both, for any subsequent offense”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-650 effective 6 months after Dec. 1, 1990, see section 610 of Pub. L. 101-650, set out as an Effective Date note under section 106A of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 101, 109, 111, 115, 119, 122, 411, 501, 509 of this title; title 18 section 2319; title 19 section 1595a.

§ 507. Limitations on actions

(a) **CRIMINAL PROCEEDINGS.**—Except as expressly provided otherwise in this title, no criminal proceeding shall be maintained under the provisions of this title unless it is commenced within 5 years after the cause of action arose.

(b) **CIVIL ACTIONS.**—No civil action shall be maintained under the provisions of this title unless it is commenced within three years after the claim accrued.

(Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2586; Pub. L. 105-147, § 2(c), Dec. 16, 1997, 111 Stat. 2678; Pub. L. 105-304, title I, § 102(e), Oct. 28, 1998, 112 Stat. 2863.)

HISTORICAL AND REVISION NOTES

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Section 507, which is substantially identical with section 115 of the present law [section 115 of former title 17], establishes a three-year statute of limitations for both criminal proceedings and civil actions. The language of this section, which was adopted by the act of September 7, 1957 (71 Stat. 633) [Pub. L. 85-313, § 1, Sept. 7, 1957, 71 Stat. 633], represents a reconciliation of views, and has therefore been left unaltered.

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1998—Subsec. (a). Pub. L. 105-304 substituted “Except as expressly provided otherwise in this title, no” for “No”.

1997—Subsec. (a). Pub. L. 105-147 substituted “5” for “three”.

§ 508. Notification of filing and determination of actions

(a) Within one month after the filing of any action under this title, the clerks of the courts of the United States shall send written notification to the Register of Copyrights setting forth, as far as is shown by the papers filed in the court, the names and addresses of the parties and the title, author, and registration number of each work involved in the action. If any other

copyrighted work is later included in the action by amendment, answer, or other pleading, the clerk shall also send a notification concerning it to the Register within one month after the pleading is filed.

(b) Within one month after any final order or judgment is issued in the case, the clerk of the court shall notify the Register of it, sending with the notification a copy of the order or judgment together with the written opinion, if any, of the court.

(c) Upon receiving the notifications specified in this section, the Register shall make them a part of the public records of the Copyright Office.

(Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2586.)

HISTORICAL AND REVISION NOTES

HOUSE REPORT NO. 94-1476

Section 508, which corresponds to some extent with a provision in the patent law (35 U.S.C. 290), is intended to establish a method for notifying the Copyright Office and the public of the filing and disposition of copyright cases. The clerks of the Federal courts are to notify the Copyright Office of the filing of any copyright actions and of their final disposition, and the Copyright Office is to make these notifications a part of its public records.

§ 509. Seizure and forfeiture

(a) All copies or phonorecords manufactured, reproduced, distributed, sold, or otherwise used, intended for use, or possessed with intent to use in violation of section 506(a), and all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced, and all electronic, mechanical, or other devices for manufacturing, reproducing, or assembling such copies or phonorecords may be seized and forfeited to the United States.

(b) The applicable procedures relating to (i) the seizure, summary and judicial forfeiture, and condemnation of vessels, vehicles, merchandise, and baggage for violations of the customs laws contained in title 19, (ii) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from the sale thereof, (iii) the remission or mitigation of such forfeiture, (iv) the compromise of claims, and (v) the award of compensation to informers in respect of such forfeitures, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section; except that such duties as are imposed upon any officer or employee of the Treasury Department or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the provisions of the customs laws contained in title 19 shall be performed with respect to seizure and forfeiture of all articles described in subsection (a) by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General.

(Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2587; Pub. L. 105-80, § 12(a)(14), Nov. 13, 1997, 111 Stat. 1535.)